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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ROBERTO JURADO,

Petitioner - Appellant,

v.

STUART J. RYAN,

Respondent - Appellee.

No. 06-56016

D.C. No. CV-05-04536-AHS

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Central District of California  
Alicemarie H. Stotler, District Judge, Presiding

Submitted December 17, 2008<sup>\*\*</sup>

Before: GOODWIN, TROTT, and RYMER, Circuit Judges.

Roberto Jurado, a California state prisoner, appeals from the district court's judgment denying his 28 U.S.C. § 2254 habeas petition. We have jurisdiction

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

pursuant to 28 U.S.C. §§ 1291 and 2253, and we affirm.

Jurado contends that the jury instructions given at his trial improperly relieved the prosecution of its burden to prove his identity as the perpetrator beyond a reasonable doubt, in violation of due process. However, in light of the jury charge as a whole, the parties' closing arguments, and the extensive evidence establishing that Jurado committed the crime, Jurado has failed to demonstrate a reasonable likelihood that the jury applied the challenged instructions in a way that violates the Constitution. *See Estelle v. McGuire*, 502 U.S. 62, 72 (1991). We conclude that the state court's decision rejecting this contention was neither contrary to, nor an unreasonable application of, clearly established federal law. *See* 28 U.S.C. § 2254(d).

**AFFIRMED.**